

**U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION**

**Mid-Pacific Region
Lahontan Basin Area Office, Carson City, Nevada**

***DRAFT* Finding of No Significant Impact
Newlands Project Water Rights
Retirement Program**

FONSI NO: LO-10-01

Recommended by: Jane Schmidt
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Date

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Date

Approved by: Kenneth Parr
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Date



INTRODUCTION

In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, the Lahontan Basin Area Office of the United States Bureau of Reclamation (Reclamation) has prepared an *Environmental Assessment for the Newlands Project Water Rights Retirement Program* (EA for the Retirement Program) dated June 2010, which is hereby incorporated by reference. The EA for the Retirement Program describes the environmental effects of acquiring, abandoning, and retiring some surface water rights within Reclamation's Newlands Project in Lyon County and Churchill County, Nevada. The purpose of the Retirement Program is to benefit Pyramid Lake and to provide an alternative to time-consuming and costly legal or administrative proceedings concerning challenged water rights in the Newlands Project.

BACKGROUND

Reclamation proposes to provide funding appropriated by the United States by Public Law 110-161, Section 208 (a)(4), as amended by Public Law 111-8:

“Notwithstanding any other provision of law, of amounts made available under section 2507 of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary of the Interior—

(4) shall allocate \$3,000,000 to the Newlands Project Water Rights Fund for a Federal-State-Pyramid Lake Paiute Tribe program, to be administered by an entity identified by the 3 applicable parties for the retirement of water rights.”

The Newlands Project Water Rights Retirement Program and Newlands Project Water Rights Fund would be administered by Great Basin Land and Water, a Nevada non-profit organization. An estimated several hundred acres of surface water rights would be purchased from willing sellers over a 2 year period. The Truckee Carson Irrigation District would receive a payment for each acre of water rights acquired as an offset for lost operating and maintenance revenues associated with the retirement of water rights.

During the period between 2000 and 2006, Reclamation contributed federal funding to the Nevada Assembly Bill 380 Water Rights Acquisition Program (A.B. 380 Program) to acquire and retire surface water rights within the Newlands Project. The A.B. 380 Program was also intended to settle long-standing water rights conflicts that developed because of the decline of Pyramid Lake due primarily to irrigation water diversions from the Truckee River to the Newlands Project.

Reclamation produced an Environmental Assessment for the A.B. 380 Program, which is hereby incorporated by reference, and approved a Finding of No Significant Impact on September 12, 2000 with a decision to implement the Proposed Action alternative and provide approximately \$7 - \$10 million of federal funds for the acquisition and retirement of up to 6,500 acres of surface water rights in Reclamation's Newlands Project. The A.B. 380 Program ended in 2006, retiring 4,623.54 acres of water rights before funding was exhausted. Although the legal significance of reaching the A.B. 380 Program goal of retiring 6,500 acres of surface water rights is in question, the 2000 EA for the A.B. 380 Program provides a reasonable range of alternatives for the current analysis.

SUMMARY OF EFFECTS

Reclamation's *EA for the Newlands Project Water Rights Retirement Program* considers whether new circumstances, new information, or changes in the action or its impacts not previously analyzed in the 2000 EA for the A.B. 380 Program warrant new analysis. Changes between the Proposed Action alternatives described for the Retirement Program and the A.B. 380 Program are administrative in nature and would not result in any new or greater impacts beyond those previously analyzed. Changes that have occurred within the project area would not result in any new or greater effects beyond those previously analyzed. The Proposed Action would result in the permanent retirement of an estimated several hundred acres of water rights; the acreage of water rights acquired would not exceed the 6,500 acres that was analyzed in the 2000 EA for the A.B. 380 Program. The environmental effects of the Proposed Action for the Retirement Program are all within the range of effects previously analyzed in the 2000 EA for the A.B. 380 Program. On the basis of the information and analysis contained in the EA for the Retirement Program, Reclamation has determined that the environmental issues and effects are adequately addressed.

Pursuant to Section 7 of the Endangered Species Act of 1973, Reclamation conducted informal consultation with the U.S. Fish & Wildlife Service (FWS) in 2000 for Reclamation's participation in the A.B. 380 Program. An August 25, 2000 letter from FWS concurred with Reclamation's finding that the proposed action is 'not likely to adversely affect' any federally listed species. Reclamation has determined that differences between the A.B. 380 Program and the Retirement Program are administrative in nature and would not affect listed species in a manner or extent not previously analyzed. No new species have been listed for the project area, and no critical habitat has been designated that could be affected by the proposed program.

Reclamation is required to consider the impacts of project activities on Indian Trust Assets. The Proposed Action to fund the Retirement Program with \$3 million to retire surface water rights in the Newlands Project is estimated to provide more benefits to the trust assets of the Pyramid Lake Paiute Tribe than taking No Action because less water would be diverted from the Truckee River,

resulting in more flows into Pyramid Lake and higher lake elevation over time. These factors would positively influence the fisheries of Pyramid Lake and the lower Truckee River.

Neither alternative is expected to have any effect on the trust assets, amount of agricultural land, or amount of water delivered to the Fallon Paiute-Shoshone Tribe.

Section 106 of the National Historic Preservation Act requires Federal agencies to consider the effects of an action or activity on historic properties which include archaeological sites, built environment, and sites of religious and cultural significance eligible for inclusion on the National Register of Historic Places. Reclamation archaeologists have determined the proposed action to fund the Retirement Program has no potential to affect cultural resources.

Changes to vegetative communities, Newlands Project operations and infrastructure, water resources, air quality, socio-economic resources, environmental justice and cumulative effects resulting from the implementation of the Retirement Program are not expected to be significant due to the relatively small magnitude of change indicated for each of these resources in the EA for the Retirement Program.

FINDINGS

Based on the analysis of the environmental impacts as described in the EA for the Retirement Program and the EA for the A.B. 380 Program, Reclamation has determined that the proposed federal action will not significantly affect the quality of the human environment, thus an environmental impact statement is not required. This Draft Finding of No Significant Impact (FONSI) is supported by the *Environmental Assessment for the Newlands Project Water Rights Retirement Program*.

DECISION

It is Reclamation's decision to provide \$3 million to the Newlands Project Water Rights Fund for the Newlands Project Water Rights Retirement Program to acquire, abandon and retire surface water rights in the Newlands Project. The authority to acquire and retire water rights under the Retirement Program will terminate when 6,500 acres of water rights are abandoned and retired, whether by acquisition by the Fund or by any other process, including the final outcome of the Tribe's protests to change application and petition cases.